

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,663	05/23/2001	Peter J. Brittenham	RSW920010097US1	3824

7590 09/01/2004

Jeanine S. Ray-Yarletts
IBM Corporation T81/503
PO Box 12195
Research Triangle Park, NC 27709

EXAMINER

PHILLIPS, HASSAN A

ART UNIT PAPER NUMBER

2151

DATE MAILED: 09/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/864,663	Applicant(s) BRITTENHAM ET AL.	
	Examiner Hassan Phillips	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/29/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement (IDS), filed January 29, 2002, has been received and considered by the examiner.

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12, 25-27, are rejected under 35 U.S.C. 102(e) as being anticipated by Rabinovich, U.S. patent 6,256,675 (supplied by applicant).

3. In considering claims 1, 26, and 27, Rabinovich discloses a method, system, and computer program product for dynamically deploying services in a computing network, comprising steps of:

- a) Receiving client requests for a selected service, (col. 4, lines 41-43);
- b) Serving the received requests from a first server when the selected service has not yet been dynamically deployed, (col. 4, lines 56-61);
- c) Effecting a dynamic deployment by programmatically moving the selected service from the first server to one or more other servers when the dynamic deployment is triggered, (col. 5, lines 8-11); and
- d) Serving the received requests from the one or more other servers after the effecting step causes the selected service to be dynamically deployed, (col. 4, lines 56-61).

4. In considering claim 2, Rabinovich further teaches:

- a) Monitoring the number of the received client requests for the selected service, (col. 4, lines 45-50); and
- b) Triggering the dynamic deployment when the number exceeds a predetermined threshold, (col. 5, lines 8-11).

5. In considering claim 3, it is inherent in the teachings of Rabinovich that the predetermined threshold applies to a plurality of dynamically deployable services. See col. 5, lines 2-6.

6. In considering claim 4, Rabinovich teaches the predetermined threshold being applied to a selected service. See col. 5, lines 2-6.

7. In considering claim 5, it is inherently capable in the teachings of Rabinovich for a value of the predetermined threshold to be applied to all of the one or more other servers. See col. 5, lines 2-6.

8. In considering claim 6, Rabinovich teaches the predetermined threshold being applied to individual ones of the one or more other servers. See col. 5, lines 2-6.

9. In considering claim 7, it is inherent in the teachings of Rabinovich that a systems administrator specifies a value of the predetermined threshold. See col. 5, lines 2-6.

10. In considering claim 8, it is inherent in the teachings of Rabinovich that a value of the predetermined threshold is specified as a default value. See col. 5, lines 2-6.

11. In considering claim 9, it is inherent in the teachings of Rabinovich that a value of the predetermined threshold is specified programmatically. See col. 5, lines 2-6.

12. In considering claim 10, it is inherently capable in the teachings of Rabinovich for the monitoring step to count the received client requests at individual ones of the one or more other servers. See col. 5, lines 5-6.

13. In considering claim 11, it is inherently capable in the teachings of Rabinovich for the monitoring step to count the received client requests at a plurality of the one or more other servers. See col. 5, lines 5-6.

14. In considering claim 12, Rabinovich further teaches monitoring a load on the computing network, and triggering the dynamic deployment when the monitored load exceeds a predetermined threshold. See col. 8, lines 50-64.

15. In considering claim 25, Rabinovich further teaches transparently routing the received client requests using a repository which tracks whether the selected service is deployed on the one or more other servers, and wherein the serving steps serve the received requests from the first server or from the one or more other servers, depending on the transparently routing step. See col. 4, lines 41-61.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-17, 20-24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich.

3. In considering claims 13-17, and 20-24, although the disclosed method of Rabinovich shows substantial features of the claimed invention, it fails to expressly disclose issuing a deployment request for the selected service.

Nevertheless, issuing requests for the deployment of services was well known in the art at the time of the present invention. Rabinovich teaches determining if there are other hosts to which the selected service may be deployed. See col. 5, lines 8-16.

Thus, it would have been apparent to one of ordinary skill in the art at the time of the present invention to modify the teachings of Rabinovich to show in the determination of whether there are other hosts to which the selected service may be deployed, issuing a deployment request and/or response that was capable of comprising a service description, an interface description, information about run-time conditions, and executable code adapted to the run-time conditions. This would have provided an efficient means for dynamically deploying the selected service to unfamiliar hosts

located on the network, and would have provided a requestor of the service, the service more efficiently.

4. Claims 18, 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabinovich in view of Applicants Admitted Prior Art (AAPA).

5. In considering claims 18, and 19, although the disclosed system of Rabinovich shows substantial features of the claimed invention, it fails to explicitly teach the deployment request comprising a Simple Object Access Protocol (SOAP), or an Extensible Markup Language (XML) protocol.

Nevertheless these protocols were well known in the art at the time of the present invention. The applicant shows this in the discussion of the prior art. See page 5, lines 5-13.

Thus, it would have been obvious to one of ordinary skill in the art to modify the teachings of Rabinovich, to show the deployment request comprising SOAP, or XML. This would have facilitated application integration.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rabinovich, U.S. Patent 6,256,675 (supplied by applicant), discloses a method for dynamically deploying services in a computing network.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (703) 308-6687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/
8/20/04


ZARNI MAUNG
PRIMARY EXAMINER